IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE FOURTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

WRIT PETITION NO : 7567 of 1994

Between:

The Management of Singareni Collieries Co. Ltd., Rep. by General Manager, Mandamari Area, Adilabad Dist.

..... PETITIONER

AND

1 The Presiding Officer Industrial Tribunal-I
Chandra Vihar, M.J. Road,
Hyderabad.
2 The Workmen of Singareni Collieries Co. Ltd., Rep. by the

Chief Vice-President, Singareni Collieries Workers

Union (AITUC), Bellampalli-504251,
Adilabad Dist. (A.P.)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or writ particularly one in the nature of Writ of Certiorari after calling for the records from the 1st respondent in I.D.No.35 of 1987, and quash the Award passed therein dt:1st September, 1993.

Counsel for the Petitioner: MR.K.SRINIVASAMURTHY

Counsel for the Respondent No.1: GP FOR LABOUR

Counsel for the Respondent No.2: None appeared.

The Court made the following:

ORAL ORDER:

1. The writ petition is filed by the Management of Singareni Collieries Company Limited challenging the award, dated 1.9.1993 passed by the Industrial Tribunal in I.D.No.35 of 1987. At the instance of the Union, the Government of India referred the following reference for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947 (for brevity "The Act"):

1. *"Whether the action of the Management of Singareni Collieries Company Limited in relation to their Mandamarri Area in deducting the casual leave wages and house rent allowance, which was paid under NCWA-III to the Badli Workers by virtue of their having once initially put in one year of continuous service is justified? If not, to what relief the workmen are entitled?"*

2. *"Whether the action of the management of Singareni Collieries Company Limited in relation to their Mandamarri Area in not granting casual leave with wages and not paying house rent allowance to the Badli workers who have put in one year of continuous qualifying service once, and insisting for one year continuous service each time in the preceding year to qualify for the same in the succeeding year is justified? If not, to what relief the workmen are entitled?"*

2. The Union of the workmen filed a claim statement. So also, the management filed a counter basing on the claim of the workmen. One witness was examined on behalf of the workmen and two witnesses were examined on behalf of the management. Exs.W1 to W15 were marked for the workmen and Ex.M1to M6 were marked for the management. The Tribunal, on appreciation of the evidence held that the demand of all the eligible badli workers, who were put in 190 musters in a period of 12 months should be paid H.R.A and Casual leave wages and the cost of free supply of coal from the date of

stoppage i.e. from the date of 1st January, 1983 and also to pay these benefits to all other badli workers who have once put in 190 musters in 12 calendar months and thus put in one year's continuous service with retrospective effect.

3 . The principal contention of the learned counsel for the management is that in order to get the benefits as referred to above, badli workmen concerned have to put in either 190 (underground) or 240 (surface) and physically work, and since the workmen concerned, who raised a dispute did not work for 190/240 days as referred to above, the question of payment would not arise. In fact, the learned counsel submits that the Tribunal also accepted that one should put in 190 musters if he is an employee underground to get the benefits and therefore, the order suffers from serious infirmity and the same is liable to be set aside.

4. Even though notices were served on the 2nd respondent-Union, no one is present and there is no representation on their behalf. I have heard the parties.

5 . The only question that arises for consideration is whether the workmen concerned have put in the requisite attendance of 190/240 both in underground and surface respectively to get the benefits of H.R.A, casual leave wages and free supply of coal?

6. The Tribunal recorded a finding that an underground employee in order to get the benefits should complete 190 musters in each year but the question is whether these musters should be put in the preceding year or in the current year. According to the learned counsel for the management, the musters should be put in the preceding year so as to enable the workmen to get the benefits in the succeeding year and in fact that is being followed in respect of other Mines also.

7 . I find force in the contention of the learned counsel for the petitioner that the Tribunal has not concentrated on the issue as to whether the workmen concerned should complete the requisite

musters in the preceding year or in the succeeding year. That is the most crucial aspect to be considered before releasing all the benefits as contemplated under various settlements.

8. Under those circumstances, I am of the considered view that the reconsideration of the matter is in the hands of the Tribunal. Accordingly, the award of the Tribunal is set aside and remitted back to the Tribunal for fresh consideration. The Tribunal shall cause issuance of notice to both the parties and decide the matter afresh within a period of four months from the date of receipt of a copy of this order.

9. The writ petition is accordingly disposed of. There shall be no order as to costs.

_____

(G. BIKSHAPATHY, J.)

4th November, 2004.

bcj/mrb

To

1. The Presiding Officer, Industrial Tribunal-I

Chandra Vihar, M.J. Road,
Hyderabad.

2. Two C.Cs. to G.P. for Labour, High Court

Buildings, High Court of A.P., Hyderabad, (OUT)

3. Two C.D. Copies.